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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,635	05/25/2001	Robert Lewis Bixler JR.	DC4908	1717

137 7590 05/10/2002

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EXAMINER

MOORE, MARGARET G

ART UNIT	PAPER NUMBER
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1712

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DATE MAILED: 05/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,635

Applicant(s)

BIXLER ET AL.

Examiner

Margaret G. Moore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 to 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The US references cited in PTO-1449 have been considered, but the reference cited under "Other Documents" has not been considered since no copy of this reference was supplied.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilgrien et al.

Bilgrien et al. teach a storage stable silicone composition that comprises blending a high consistency silicone with a silica filler and a treating agent for the filler at a temperature of from 100 to 200 °C. Particular attention is drawn to Example 1. This shows a blending step in which a high consistency silicone is mixed with silica and silica treating agents in a fluidized state at a temperature of 140 to 145 °C. The top of col. 9 teaches that the particle size of the composition at this point is between 10 and 700 microns. This meets instant step A) as claimed. This composition is then cooled by circulating cooling water throughout the jacket. The composition is cooled in bulk and the cooling water meets the limitation of "facilitating accelerated bulk cooling". This meets instant step B). The composition is fused using a two roll rubber mill. To this is added a peroxide catalyst and the resulting composition is recovered. This meets steps D) and E). As such, the only claimed step not met by this specific example is step C), feeding to an extruder and massing. As noted supra, this example feeds to a two roll rubber mill. Column 9, lines 55 to 60, teach that this massing step can be conducted in a roll mill or an extruder. Thus one having ordinary skill in the art would have found the use of an extruder rather than a two roll mill obvious in the process taught by Bilgrien et al. In this manner, the instant claims would have been obvious to one having ordinary skill in the art. With regards to the limitation in C) of a temperature below the decomposition

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temperature of the peroxide catalyst, note that a peroxide is added to the composition and cures upon heating. Thus this limitation is inherently met by the process shown in Bilgrien et al.

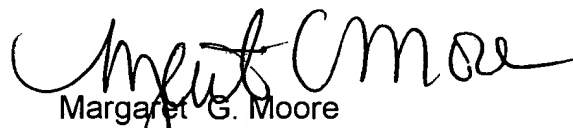
The dependent claim limitations are also taught and/or suggested by Bilgrien et al. Note for instance the bottom of column 3 and column 4 which teach viscosities which meet and/or suggest claims 2 and 3. Note the amounts and type of filler taught on column 5 which meets claims 5 and 6. Column 5 through column 6 teaches the limitations of claims 7 and 8. The example cited supra meets claims 9 to 12.

4. Dopp et al. is cited as being of general interest. This reference teaches a process of preparing a silicone/silica/peroxide composition.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 703-308-4334. The examiner can normally be reached on Tues. and Thurs. 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9311 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
May 8, 2002